

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEVI DALE LASTER, JR.,

Plaintiff,

v.

RONNIE MIMMICK, et al.,

Defendants.

No. 2:25-cv-1134 CSK P

ORDER

Plaintiff is a county jail inmate proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis is granted.

Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, plaintiff is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff is obligated to make monthly payments of twenty percent of the preceding month's income credited to plaintiff's trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the

1 amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C.  
2 § 1915(b)(2).

3 As discussed below, plaintiff's complaint is dismissed with leave to amend.

#### 4 I. SCREENING STANDARDS

5 The court is required to screen complaints brought by prisoners seeking relief against a  
6 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The  
7 court must dismiss a complaint or portion thereof if the prisoner raised claims that are legally  
8 "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek  
9 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

10 A claim is legally frivolous when it lacks an arguable basis either in law or in fact.  
11 Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th  
12 Cir. 1984). The court may, therefore, dismiss a claim as frivolous when it is based on an  
13 indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke,  
14 490 U.S. at 327. The critical inquiry is whether a constitutional claim, however inartfully  
15 pleaded, has an arguable legal and factual basis. See Jackson v. Arizona, 885 F.2d 639, 640 (9th  
16 Cir. 1989), superseded by statute as stated in Lopez v. Smith, 203 F.3d 1122, 1130-31 (9th Cir.  
17 2000) ("[A] judge may dismiss [in forma pauperis] claims which are based on indisputably  
18 meritless legal theories or whose factual contentions are clearly baseless."); Franklin, 745 F.2d at  
19 1227.

20 Rule 8(a)(2) of the Federal Rules of Civil Procedure "requires only 'a short and plain  
21 statement of the claim showing that the pleader is entitled to relief,' in order to 'give the  
22 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Bell Atlantic  
23 Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)).  
24 In order to survive dismissal for failure to state a claim, a complaint must contain more than "a  
25 formulaic recitation of the elements of a cause of action;" it must contain factual allegations  
26 sufficient "to raise a right to relief above the speculative level." Bell Atlantic, 550 U.S. at 555.  
27 However, "[s]pecific facts are not necessary; the statement [of facts] need only 'give the  
28 defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" Erickson v.

Pardus, 551 U.S. 89, 93 (2007) (quoting Bell Atlantic, 550 U.S. at 555, citations and internal quotations marks omitted). In reviewing a complaint under this standard, the court must accept as true the allegations of the complaint in question, Erickson, 551 U.S. at 93, and construe the pleading in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236 (1974), overruled on other grounds, Davis v. Scherer, 468 U.S. 183 (1984).

## II. THE CIVIL RIGHTS ACT

To state a claim under § 1983, a plaintiff must demonstrate: (1) the violation of a federal constitutional or statutory right; and (2) that the violation was committed by a person acting under the color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988); Jones v. Williams, 297 F.3d 930, 934 (9th Cir. 2002). An individual defendant is not liable on a civil rights claim unless the facts establish the defendant's personal involvement in the constitutional deprivation or a causal connection between the defendant's wrongful conduct and the alleged constitutional deprivation. See Hansen v. Black, 885 F.2d 642, 646 (9th Cir. 1989); Johnson v. Duffy, 588 F.2d 740, 743-44 (9th Cir. 1978). That is, plaintiff may not sue any official on the theory that the official is liable for the unconstitutional conduct of his or her subordinates. Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009). The requisite causal connection between a supervisor's wrongful conduct and the violation of the prisoner's constitutional rights can be established in a number of ways, including by demonstrating that a supervisor's own culpable action or inaction in the training, supervision, or control of his subordinates was a cause of plaintiff's injury. Starr v. Baca, 652 F.3d 1202, 1208 (9th Cir. 2011).

## III. PLAINTIFF'S COMPLAINT

Plaintiff names 19 defendants, including Nicole Kidman. (ECF No. 1 at 2.) Plaintiff alleges that a few years ago, defendant Ronnie Mimmick, a "dope dealer," and his family invited plaintiff up to Ronnie's house to kill plaintiff. (ECF No. 1 at 5.) They had a spider bite plaintiff's left leg, and other defendants called an ambulance, which did not take plaintiff to the hospital, but instead then took him up to a diamond mine to execute plaintiff. (Id.) Then all of the defendants changed plaintiff's name through the State of California and Social Security without plaintiff's permission. Plaintiff does not identify the requested relief. (Id. at 7-8.)

## 1 IV. DISCUSSION

2 Even taking plaintiff's pro se allegations as true, plaintiff includes no facts demonstrating  
3 that the violations were committed by a person acting under the color of state law. See West, 487  
4 U.S. at 48. Absent facts not alleged here, defendant Ronnie Mimmick and his family are private  
5 citizens who do not act under color of state law. Further, plaintiff fails to explain how the alleged  
6 acts violated plaintiff's constitutional or other federal rights. In addition, plaintiff failed to set  
7 forth what relief he seeks.

8 The Court finds the allegations in plaintiff's complaint so vague and conclusory that it is  
9 unable to determine whether the current action is frivolous or fails to state a claim for relief. The  
10 Court determines that the complaint does not contain a short and plain statement as required by  
11 Fed. R. Civ. P. 8(a)(2). Although the Federal Rules adopt a flexible pleading policy, a complaint  
12 must give fair notice and state the elements of the claim plainly and succinctly. Jones v. Cmty.  
13 Redev. Agency, 733 F.2d 646, 649 (9th Cir. 1984). Plaintiff must allege with at least some  
14 degree of particularity overt acts which defendants, acting under color of state law, engaged in  
15 that support plaintiff's claim. Id. Because plaintiff failed to comply with the requirements of  
16 Fed. R. Civ. P. 8(a)(2), the complaint must be dismissed. However, the Court grants plaintiff  
17 leave to file an amended complaint.

18 If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions  
19 about which he complains resulted in a deprivation of plaintiff's constitutional rights. See, e.g.,  
20 West, 487 U.S. at 48. Also, the complaint must allege in specific terms how each named  
21 defendant is involved. Rizzo v. Goode, 423 U.S. 362, 371 (1976). There can be no liability  
22 under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's  
23 actions and the claimed deprivation. Rizzo, 423 U.S. at 371; May v. Enomoto, 633 F.2d 164, 167  
24 (9th Cir. 1980). Furthermore, vague and conclusory allegations of official participation in civil  
25 rights violations are not sufficient. Ivey v. Bd. of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

26 In addition, plaintiff is informed that the court cannot refer to a prior pleading in order to  
27 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended  
28 complaint be complete in itself without reference to any prior pleading. This requirement exists

1 because, as a general rule, an amended complaint supersedes the original complaint. See Ramirez  
2 v. Cnty. of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015) (“an ‘amended complaint  
3 supersedes the original, the latter being treated thereafter as non-existent.’” (internal citation  
4 omitted)). Once plaintiff files an amended complaint, the original pleading no longer serves any  
5 function in the case. Therefore, in an amended complaint, as in an original complaint, each claim  
6 and the involvement of each defendant must be sufficiently alleged.

7 V. CONCLUSION

8 In accordance with the above, IT IS HEREBY ORDERED that:

9 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF Nos. 15, 18) is granted.

10 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. Plaintiff  
11 is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.  
12 § 1915(b)(1). All fees shall be collected and paid in accordance with this court’s order to the  
13 Director of the California Department of Corrections and Rehabilitation filed concurrently  
14 herewith.

15 3. Plaintiff’s complaint is dismissed.

16 4. Within thirty days from the date of this order, plaintiff shall complete the attached  
17 Notice of Amendment and submit the following documents to the court:

18 a. The completed Notice of Amendment; and

19 b. An original of the Amended Complaint.

20 Plaintiff’s amended complaint shall comply with the requirements of the Civil Rights Act, the  
21 Federal Rules of Civil Procedure, and the Local Rules of Practice. The amended complaint must  
22 also bear the docket number assigned to this case and must be labeled “Amended Complaint.”  
23 Failure to file an amended complaint in accordance with this order may result in the dismissal of  
24 this action.

25 Dated: September 3, 2025

26   
27 CHI SOO KIM  
28 UNITED STATES MAGISTRATE JUDGE

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NOTICE OF AMENDMENT

Plaintiff submits the following document in compliance with the court's order  
filed on \_\_\_\_\_ (date).

☐

Amended Complaint

(Check this box if submitting an Amended Complaint)

DATED:

\_\_\_\_\_  
Plaintiff